Hepting et al v. AT&T Corp. et al Doc. 97

ELECTRONIC FRONTIER FOUNDATION
CINDY COHN (145997)
cindy@eff.org
LEE TIEN (148216)
tien@eff.org
KURT OPSAHL (191303)
kurt@eff.org
KEVIN S. BANKSTON (217026)
bankston@eff.org
CORYNNE MCSHERRY (221504)
corynne@eff.org
JAMES S. TYRE (083117)
jstyre@eff.org
454 Shotwell Street
San Francisco, CA 94110
Telephone: 415/436-9333
415/436-9993 (fax)

Attorneys for Plaintiffs

[Additional counsel appear on signature page.]

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

TASH HEPTING, GREGORY HICKS, CAROLYN JEWEL and ERIK KNUTZEN, on Behalf of Themselves and All Others Similarly Situated,, Plaintiffs, v. AT&T CORP., et al., Defendants.	No. C-06-0672-VRW **CLASS ACTION** **DECLARATION OF CINDY COHN IN SUPPORT OF PLAINTIFFS' ADMINISTRATIVE MOTION TO REMOVE INCORRECTLY FILED DOCUMENT FROM DOCKET** Courtroom: 6, 17th Floor Judge: Hon. Vaughn Walker

Dockets.Justia.com

I, Cindy A. Cohn, declare as follows:

1. I am an attorney licensed to practice before this Court and am counsel to the plaintiffs in this action. I make this declaration based on personal knowledge and if called as a witness hereto, I could and would testify as follows:

2. On Monday, May 1, 2006, at 12:02 p.m., due to a miscommunication between me and my legal assistant, my legal assistant incorrectly filed a portion of an exhibit to a letter brief, document #93, that contained information from the Declaration of Mark Klein and its exhibits that are currently lodged with the Court under the procedure provided by Local Rule 79-5, and for which defendants claim permanent sealing is proper. The Court has set a hearing on the matter of whether the information is properly sealed for May 17, 2006.

3. Upon discovering the error, only minutes after document #93 was filed, I instructed my legal assistant to contact the ECF system coordinator in accordance with the instructions posted on the ECF website, including by both email and telephone, and to ask them to "lock" the document. The document was locked by 1:30 p.m. I also instructed our legal assistant to refile the documents without the improper exhibit, which was done by 12:29 p.m. The properly filed document is #94.

4. I contacted the offices of amicus Van Der Hout & Brigagliano, the only firm on the ECF list that is not a party to this action and was informed by attorney Stacy Tolchin that no one from the firm had accessed document #93 before it was locked.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed on May 1, 2006, at San Francisco, California.

/s/

Cindy A. Cohn

CERTIFICATE OF SERVICE

I hereby certify that on May 1, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the attached Electronic Mail Notice List, and I hereby certify that I have mailed the foregoing document or paper via the United States Postal Service to the following non-CM/ECF participants:

David W. Carpenter
Sidley Austin Brown & Wood LLP
Bank One Plaza
10 South Dearborn Street
Chicago, IL 60600

David L. Lawson
Sidley Austin Brown & Wood
172 Eye Street, N.W.
Washington, DC 20006

By /s/

Cindy A. Cohn, Esq. (SBN.145997)
ELECTRONIC FRONTIER FOUNDATION
454 Shotwell Street
San Francisco, CA 94110
Telephone: (415) 436-9333 x108
Facsimile: (415) 436-9993
cindy@eff.org